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Ratner & Prestia  
500 N. Gulph Road  
P.O. Box 980  
Valley Forge, PA 19482

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SPECIAL PROGRAMS OFFICE  
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In re Application of :  
Folkert Horst, et al :  
Serial No. 08/221,704 :  
Filed: April 1, 1994 :  
Attorney Docket No. FEH-090 :  
: DECISION ON PETITION UNDER  
: 37 CFR 1.48(a)

This is a decision on a petition under 37 CFR 1.48(a) filed September 8, 1994, requesting that the name of the inventors in the application be corrected. The petition is being decided by the undersigned rather than in the examining group so that application processing, including the issuance of a filing receipt, may proceed with the actual inventors being named in the application.

The instant application was filed on April 1, 1994, pursuant to 37 CFR 1.53(b) with a small entity filing fee unsupported by a small entity statement, without an executed oath or declaration under 37 CFR 1.63 and named as the inventors: Horst, Brousseau, Cass, Bousquet, Mokhtar, Szklar, Doig, Caldwell, Girard and Ethier.

Application Processing Division mailed a Notice to File Missing Parts of Application under 37 CFR 1.53(b) on May 4, 1994, requiring an oath or declaration in compliance with 37 CFR 1.63, the balance of the large entity filing fee and a surcharge for their late submission.

In response to the Notice to File Missing Parts of Application, applicants timely filed on September 8, 1994 (with a petition and fee for a three month extension of time under 37 CFR 1.136(a) and a certificate of mailing under 37 CFR 1.8 of September 6, 1994-September 5, 1994 being a Federal Holiday and September 4, 1994 being a Sunday), inter alia, the instant § 1.48(a) petition and fee, the balance of a large entity filing fee, the surcharge, four combined Declarations under 37 CFR 1.63 and Powers of Attorney and 11 verified statements of facts including ones by the original named inventors.

The petition and verified statements of facts state that an error occurred in naming Brousseau, Mokhtar, Caldwell, Girard and Ethier as co-inventors, that the original named inventors were not aware that inventorship is based on the subject matter claimed in the application, that the inventorship was set forth based on the project as a whole and that the error was discovered after the application was filed.

As the petition is silent in regard to the existence of an assignee, it will be presumed that no assignee exists and a written consent is not required. MPEP 201.03, page 200-5, Written Consent of Assignee.

Based on the file record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected.

The § 1.48(a) petition to correct the inventorship is Granted.

The application is being returned to the Special Processing and Correspondence Branch of the Application Processing Division for further processing, including the issuance of a filing receipt, with the names of the inventors as shown on the executed declarations under 37 CFR 1.63 filed on September 8, 1994.



Hiram H. Bernstein  
Special Program Examiner  
Office of Special Program Examination  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects